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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH PARKER; CHARLES ROBERSON;)
 AKUA FRANKLIN; JAMES OLIER;) CASE NO.
 NATHAN CAVENESS; ELIAS MARGAIN;)
 FRANK WILLIAMS,)
)
 Plaintiffs,)
) COMPLAINT FOR DAMAGES
) (42 U.S.C. Sections
) 1983, 1985-1988)

vs.)

CITY OF OAKLAND, a municipal)
 corporation; RICHARD WORD,)
 individually and in his capacity)
 as Chief of Police for the City)
 of Oakland; SGT. HAYTER,)
 individually and in his capacity)
 as a sergeant of police for the)
 City of Oakland; CLARENCE)
 MABANAG, individually and in)
 his capacity as a police officer)
 for the City of Oakland;)
 JUDE SIAPNO, individually and)
 in his capacity as a police)
 officer for the City)
 of Oakland; FRANCISCO VAZQUEZ,)
 individually and in his capacity)
 as a police officer for the City)
 of Oakland; JOHN GUTIERREZ,)
 individually and in his capacity)

as a police officer for the City)
 1 of Oakland; S. ARMERDING,)
 individually and in his capacity)
 2 as a police officer for the City)
 of Oakland; A. MCFARLANE,)
 3 individually and in his capacity)
 as a police officer for the City)
 4 of Oakland; DOES 1-100;)
)
 5 Defendants.)
 _____)

JURISDICTION

7
 8 1. This action arises under 42 U.S.C. § 1983.
 9 Jurisdiction is based on 28 U.S.C. §§ 1331 and 1343. The court
 10 has supplemental jurisdiction over the state claims under 28
 11 U.S.C. § 1367.

INTRADISTRICT ASSIGNMENT

12
 13 2. The claims alleged herein arose in the City of
 14 Oakland, State of California. Therefore, venue and assignment
 15 lies in the United States District Court for the Northern
 16 District of California, San Francisco or Oakland Division. 28
 17 U.S.C. Section 1391(b)(2).

PARTIES

18
 19 3. Plaintiff, JOSEPH PARKER, is an African American
 20 male and is a citizen of the United States.

21 4. Plaintiff, CHARLES ROBERSON, is an African
 22 American male and is a citizen of the United States.

23 5. Plaintiff, AKUA FRANKLIN, is an African American
 24 female and is a citizen of the United States.

25 6. Plaintiff, JAMES OLIER, is an African American
 26 male and is a citizen of the United States.

1 7. Plaintiff, NATHAN CAVENESS, is an African American
2 male and is a citizen of the United States.

3 8. Plaintiff, ELIAS MARGAIN, is an African American
4 male and is a citizen of the United States.

5 9. Plaintiff, FRANK WILLIAMS, is an African American
6 male and is a citizen of the United States.

7 10. The limitations period for each of the Plaintiffs
8 in named herein was tolled, either because they were members of
9 the putative class in the United States District Court action
10 entitled, Delphine Allen, et al. v. City of Oakland, et al.,
11 U.S.D.C. No. C00-4599 TEH, which was dismissed without prejudice
12 to their claims on or about March 14, 2003 and/or because their
13 claims were not ripe until their underlying criminal actions were
14 dismissed or otherwise vacated within the year prior to the date
15 of the filing of this lawsuit.

16 11. Defendant CITY OF OAKLAND is, and at all times
17 herein mentioned was, a municipal corporation duly organized and
18 existing under the laws of the State of California.

19 12. Defendant CLARENCE "CHUCK" MABANAG (hereinafter
20 Defendant MABANAG) was at all times herein mentioned, a Police
21 Officer for the CITY OF OAKLAND.

22 13. Defendant FRANCISCO "FRANK" VAZQUEZ (hereinafter
23 Defendant VAZQUEZ) was at all times herein mentioned, a Police
24 Officer for the CITY OF OAKLAND.

25 14. Defendant JUDE SIAPNO (hereinafter, Defendant
26 SIAPNO) was at all times herein mentioned, a Police Officer for

1 the CITY OF OAKLAND.

2 15. Defendant S. ARMERDING (hereinafter, Defendant
3 ARMERDING), was at all times herein mentioned, a Police Officer
4 for the CITY OF OAKLAND.

5 16. Defendant A. MCFARLANE (hereinafter, Defendant
6 MCFARLANE), was at all times herein mentioned, a Police Officer
7 for the CITY OF OAKLAND.

8 17. Defendant JOHN GUTIERREZ (hereinafter, Defendant
9 GUTIERREZ), was at all times herein mentioned, a Police Officer
10 for the CITY OF OAKLAND.

11 18. Defendant SGT. HAYTER (hereinafter, Defendant
12 HAYTER) was at all times herein mentioned, a police supervisor
13 for the CITY OF OAKLAND.

14 19. Defendant RICHARD WORD (hereinafter, Defendant
15 WORD) was at all times herein mentioned, the Chief of Police for
16 the City of Oakland Police Department. He is sued individually
17 and in his capacity as Chief of Police for the City of Oakland.

18 20. Plaintiffs are ignorant of the true names and/or
19 capacities of defendants sued herein as DOES 1 through 100,
20 inclusive, and therefore sues said defendants by such fictitious
21 names. Plaintiffs will amend this complaint to allege their true
22 names and capacities when ascertained. Plaintiffs are informed
23 and believe, and upon such information and belief allege that
24 each of the Doe defendants is legally responsible and liable for
25 the incident, injuries and damages hereinafter set forth, and
26 that each of said defendants proximately caused said incidents,

1 injuries and damages by reason of their negligence, breach of
2 duty, negligent supervision, management or control, battery,
3 violation of constitutional rights, violation of public policy,
4 or by reason of other personal, vicarious or imputed negligence,
5 fault, or breach of duty, whether severally or jointly, or
6 whether based upon agency, employment, ownership, entrustment,
7 custody, care or control or upon any other act or omission.
8 Plaintiff will ask leave to amend this complaint to insert
9 further charging allegations when such facts are ascertained.

10 21. In doing the acts alleged herein, Defendants, and
11 each of them, acted within the course and scope of their
12 employment for the CITY OF OAKLAND.

13 22. In doing the acts and/or omissions alleged herein,
14 Defendants, and each of them, acted under color of authority
15 and/or under color of law.

16 23. In doing the acts and/or omissions alleged herein,
17 Defendants, and each of them, acted as the agent, servant,
18 employee and/or in concert with each of said other Defendants
19 herein.

20 STATEMENT OF FACTS

21 24. Plaintiffs are informed and believe and thereon
22 allege that Defendant CITY OF OAKLAND employed a number of police
23 officers, including, but not limited to, Defendants MABANAG,
24 VAZQUEZ, SIAPNO, ARMERDING, MCFARLANE, GUTIERREZ and/or DOES 1-
25 100 and/or each of them, who engaged in a repeated custom,
26 policy, pattern and/or practice of committing civil rights

1 violations and other misconduct directed primarily at African
2 Americans and other minority citizens within the City of Oakland.

3 25. Plaintiffs are further informed and believe and
4 thereon allege that said civil rights violations and/or other
5 misconduct included, but were not limited to, causing citizens to
6 be subjected to false arrests, false imprisonment, causing false
7 police reports to be written and false charges to be filed
8 against citizens, planting drugs or other items and/or allowing
9 drugs or other items to be planted by other officers, conspiracy
10 and/or other misconduct.

11 26. Plaintiffs are further informed and believe and
12 thereon allege that some of these officers became widely known as
13 "the Riders" and that their misconduct was known by other members
14 and supervisors within the CITY OF OAKLAND Police Department.

15 27. Plaintiffs are further informed and believe and
16 thereon allege that despite the repeated and frequent nature of
17 the misconduct and civil rights violations committed by "The
18 Riders" and/or other officers, high ranking City of Oakland
19 officials failed to take any or appropriate remedial action prior
20 to the subject incidents involving the Plaintiffs. As a result,
21 "The Riders," and/or other officers, engaged in repeated and
22 serious acts of misconduct and civil rights violations against
23 citizens in the Oakland neighborhoods where they were assigned.

24 28. Plaintiffs are further informed and believe and
25 thereon allege that on or about November 2, 2000, the Alameda
26 County District Attorney's Office filed criminal charges against

1 Defendants VAZQUEZ, MABANAG, SIAPNO and Matthew Hornung as a
2 result of their repeated acts of misconduct while on duty as
3 members of the Oakland Police Department. Plaintiffs are
4 informed and believe and thereon allege that said action is still
5 pending in the Alameda County Superior Court.

6 29. Plaintiffs are informed and believe and thereon
7 allege that despite the fact that the CITY OF OAKLAND knew,
8 and/or reasonably should have known, that other members of the
9 CITY OF OAKLAND Police Department knew or should have known of
10 the misconduct of "the Riders" and/or by other officers, the CITY
11 OF OAKLAND failed to take any or appropriate remedial action
12 against other officers who participated in and/or failed to stop
13 such misconduct.

14 30. Plaintiffs are informed and believe and thereon
15 allege that Plaintiffs suffered the violation of their
16 constitutional rights as a result of customs, policies, patterns
17 and/or practices of Defendant CITY OF OAKLAND, including, but not
18 limited to, deliberate indifference in the hiring, supervision,
19 training and discipline of members of the Oakland Police
20 Department, including, but not limited to, Defendants VAZQUEZ,
21 MABANAG, SIAPNO, ARMERDING, MCFARLANE, GUTIERREZ, SGT. HAYTER
22 and/or DOES 1-100, and/or each of them.

23 31. Plaintiffs are informed and believe and thereon
24 allege that Defendant CITY OF OAKLAND was on notice of a repeated
25 pattern of misconduct by Defendants VAZQUEZ, MABANAG, SIAPNO,
26 ARMERDING, MCFARLANE, GUTIERREZ and/or DOES 1-100, and/or each of

1 them, but failed to take any or appropriate remedial action to
2 stop said pattern of misconduct.

3 32. Plaintiffs are informed and believe and thereon
4 allege that the aforementioned incidents were caused by the
5 deliberate indifference of the CITY OF OAKLAND with regard to the
6 need for more or different training and/or supervision and/or
7 discipline of its police officers, including Defendants VAZQUEZ,
8 MABANAG, SIAPNO, ARMERDING, MCFARLANE, GUTIERREZ, SGT. HAYTER
9 and/or DOES 1-100.

10 33. Plaintiffs are further informed and believe and
11 thereon allege that they suffered the violation of their
12 constitutional rights as a result of customs, policies, or
13 practices of the CITY OF OAKLAND, including, but not limited to,
14 customs, policies or practices which encouraged, authorized or
15 condoned false arrests, fabrication of evidence, falsification of
16 police reports and/or other misconduct which foreseeably would
17 result in the violation of the rights of citizens.

18 34. Plaintiffs are further informed and believe and
19 thereon allege that they suffered the violation of their
20 constitutional rights as a result of customs, policies or
21 practices of the CITY OF OAKLAND, including, but not limited to,
22 a custom, policy or practices of failing to stop or prevent
23 ongoing acts of misconduct by certain members of its police
24 department, including, but not limited to Defendants VAZQUEZ,
25 MABANAG, SIAPNO, ARMERDING, MCFARLANE, GUTIERREZ, and/or DOES 1-
26 100, or each of them.

1 35. Plaintiffs are further informed and believe and
2 thereon allege that high ranking City of Oakland officials,
3 including, but not limited to, high ranking police department
4 supervisors, knew and/or reasonably should have known of the
5 custom, policies, patterns and/or practices of misconduct by
6 Defendants VAZQUEZ, MABANAG, SIAPNO, ARMERDING, MCFARLANE,
7 GUTIERREZ and/or DOES 1-100, and/or by each of them, and failed
8 to take any or appropriate remedial action prior to the subject
9 incident.

10 36. Plaintiffs are further informed and believe and
11 thereon allege that said high ranking City of Oakland officials
12 who knew and/or should have known of the misconduct of "The
13 Riders" and/or other officers, include, but are not limited to,
14 Defendants WORD, SGT. HAYTER and/or DOES 1-100.

15 37. Plaintiff is further informed and believes and
16 thereon alleges that Defendants WORD, HAYTER and/or DOES 1-100,
17 and/or each of them, ratified, approved, condoned and/or
18 otherwise encouraged a pattern, practice, custom or policy of
19 misconduct and/or civil rights violations by "The Riders" and/or
20 by other officers.

21 **THE INDIVIDUAL PLAINTIFFS**

22 **JOSEPH PARKER**

23 38. On or about July 3, 2000, Plaintiff JOSEPH
24 PARKER was near the corner of 10th and Center Street in West
25 Oakland when Defendants VAZQUEZ, MABANAG, SIAPNO and/or DOES 1-
26 100, arrived in the area.

1 39. Although the Plaintiff was not in possession of
2 any drugs, including any rock cocaine, and had not committed
3 any crime, he was subjected to unreasonable and excessive
4 force, thrown to the ground and arrested without reasonable or
5 probable cause to believe that he committed any crime by
6 Defendants VAZQUEZ, MABANAG, SIAPNO and/or DOES 1-100 and/or
7 each of them, individually and/or while acting in concert with
8 one another.

9 40. The Plaintiff was eventually released from
10 custody when Defendants VAZQUEZ, MABANAG, SIAPNO and/or DOES 1-
11 100 and/or each of them, individually and/or while acting in
12 concert with one another, decided to arrest and falsely charge
13 Rodney Mack, with a drug offense based on a false report
14 concerning the incident. Mr. Mack's charges were eventually
15 dropped by the Alameda County District Attorney's Office and
16 the arrest of Mr. Mack was one of the incidents that led to
17 criminal charges being filed against Defendants VAZQUEZ,
18 MABANAG, SIAPNO and/or DOES 1-100 and/or each of them.

19 41. As a result of Defendants' acts and/or
20 omissions, Plaintiff PARKER sustained damages and injuries,
21 including, but not limited to, pain and suffering, denial of
22 liberty without due process of law, emotional distress and
23 other damages to be ascertained in amounts to be determined
24 according to proof.

25 **CHARLES ROBERSON**

26 42. On or about September 13, 1996, Plaintiff

1 ROBERSON was entertaining friends at the home he shared with
2 his father at or about 1704 23rd Avenue, Oakland, California.

3 43. When Plaintiff ROBERSON and his friends exited
4 his home, they were stopped without reasonable or probable
5 cause to believe that they committed any crimes by Defendant
6 MABANAG or DOE 1.

7 44. After Plaintiff ROBERSON complained about the
8 unreasonable stop, Defendant MABANAG or DOE 1 falsely claimed
9 that Plaintiff ROBERSON dropped cocaine on the ground and
10 falsely arrested and imprisoned him on a false felony drug
11 charge.

12 45. As a result, Plaintiff ROBERSON was falsely
13 arrested and was falsely imprisoned in the City of Oakland
14 Jail.

15 46. Criminal charges were then filed against
16 Plaintiff ROBERSON based on Defendant MABANAG's false account
17 of the incident. As a result, Plaintiff ROBERSON was forced to
18 defend himself against the criminal charges in Court.

19 47. Fearing that he would be convicted on the false
20 criminal charges, Plaintiff ROBERSON accepted a plea agreement,
21 which included jail time, probation and other terms and
22 conditions which restricted Plaintiff ROBERSON's liberty.

23 48. Thereafter, on or about July 25, 2003, the false
24 criminal charges filed against the Plaintiff as a result of
25 this incident were dismissed by the Alameda County Superior
26 Court.

1 49. As a result of this incident, Plaintiff ROBERSON
2 suffered damages and injuries that included, but were not
3 limited to, pain, suffering, emotional distress, loss of
4 liberty and freedom, court costs, fines and/or expenses, lost
5 income and/or lost wages in amounts to be determined according
6 to proof.

7 **AKUA FRANKLIN**

8 50. On or about April 18, 1999, Plaintiff AKUA
9 FRANKLIN was stopped, detained and arrested by Defendants
10 MABANAG and/or DOES 1-100 and/or each of them, without
11 reasonable or probable cause to believe that she committed any
12 crime. During the course of the arrest, Defendants MABANAG
13 and/or DOES 1-100 and/or each of them, falsely claimed that he
14 found cocaine in Plaintiff FRANKLIN's possession.

15 51. As a result, Plaintiff FRANKLIN was arrested and
16 imprisoned without reasonable or probable cause.

17 52. Fearing that she would be convicted of a lengthy
18 prison sentence based on the officers' false reports and/or
19 testimony, Plaintiff FRANKLIN accepted a plea agreement, the
20 conditions of which included, but were not limited to, county
21 jail time, a fine, three years of probation and a four way
22 search clause.

23 53. Thereafter, on or about August 8, 2003, the
24 false criminal charges filed against the Plaintiff as a result
25 of this incident were dismissed by the Alameda County Superior
26 Court following a motion to dismiss made by the Alameda County

1 District Attorney's Office.

2 54. As a result of this incident, Plaintiff FRANKLIN
3 sustained damages and injuries, including, but not limited to,
4 pain, suffering, emotional distress, loss of liberty,
5 attorneys' fees in connection with the defense of the criminal
6 action, court costs and/or expenses and/or other damages and
7 injuries to be determined according to proof.

8 **JAMES OLIER**

9 55. On or about March 6, 2000, Plaintiff JAMES OLIER
10 was sitting in a car parked in the vicinity of the 300 Block of
11 Lewis Street in Oakland, California. Plaintiff OLIER was not
12 committing any crime and there was no reasonable or probable
13 cause to believe that he was.

14 56. Nevertheless, Defendants VAZQUEZ, ARMERDING
15 and/or DOES 1-100 and/or each of them, approached the vehicle
16 and ordered Plaintiff OLIER and the other occupants to get out
17 of the car.

18 57. Defendant VAZQUEZ searched the Plaintiff and did
19 not discover any illegal drugs in the Plaintiff's possession.

20 58. Nevertheless, Defendants VAZQUEZ, ARMERDING
21 and/or DOES 1-100 and/or each of them, conspired and/or acted
22 in concert with one another, to cause the Plaintiff to be
23 falsely arrested, falsely imprisoned and falsely charged with
24 drug crime because they knew the Plaintiff was on probation and
25 would likely go to state prison if convicted of the false drug
26 charge.

1 59. Fearing that he would receive a harsh sentence
2 if he contested the charges in a jury trial, the Plaintiff
3 agreed to accept a plea agreement. The terms of the plea
4 agreement included, but were not limited to, five years of
5 felony probation, with the first eight months served in the
6 Alameda County jail, the imposition of fees and fines,
7 requirements that the Plaintiff submit to searches, drug tests,
8 register as a narcotics offender and attend a drug program.

9 60. Eventually, on or about December 12, 2002, the
10 false charges against the Plaintiff were dismissed by the Court
11 when the Court granted the Plaintiff's petition for a writ of
12 habeas corpus.

13 61. As a result of this incident, the Plaintiff
14 suffered damages and injuries which included, but were not
15 limited to, pain, suffering, emotional distress, loss of
16 liberty and freedom, court costs, expenses and/or fines and/or
17 other damages in amounts to be determined according to proof.

18 **NATHAN CAVENESS**

19 62. On or about February 4, 1999, Plaintiff NATHAN
20 CAVENESS was a passenger in a vehicle that was pulled over by
21 Defendant MABANAG and/or DOE 1.

22 63. Plaintiff had committed no crime and there was
23 no reasonable or probable cause to believe that the Plaintiff
24 committed any crime.

25 64. Nevertheless, Defendant MABANAG or DOE 1 falsely
26 claimed that he saw Plaintiff drop cocaine on the ground after

1 exiting the vehicle.

2 65. As a result, Plaintiff was arrested and
3 imprisoned without reasonable or probable cause to believe that
4 he committed any crime and was falsely charged with a felony.
5 Plaintiff remained imprisoned in the Alameda County Jail for
6 approximately 70 days while he was awaiting trial in Alameda
7 Superior Court.

8 66. Fearing that he would be convicted if he tried
9 to contest the false charges in a jury trial, the Plaintiff
10 agreed to accept a plea agreement whereby he received a
11 sentence of 16 months in State Prison, was ordered to pay
12 restitution and a fine and was subjected to other terms and
13 conditions of his sentence and parole.

14 67. Eventually, on or about December 12, 2002, the
15 Court dismissed the false felony charge against the Plaintiff
16 when it granted the Plaintiff's petition for a writ of habeas
17 corpus.

18 68. As a result of this incident, Plaintiff suffered
19 damages and injuries, including, but not limited to, pain,
20 suffering, emotional distress, loss of liberty and freedom,
21 court costs, expenses and/or fines and/or other damages in
22 amounts to be determined according to proof.

23 **ELIAS MARGAIN**

24 69. On or about September 9, 1999, Plaintiff ELIAS
25 MARGAIN was driving a vehicle in or about the vicinity of 34th
26 Street in Oakland, California when he was pulled over by a City

1 of Oakland Police Officer.

2 70. During the course of the vehicle stop, a second
3 officer arrived at the scene in a different police vehicle.

4 71. Plaintiff MARGAIN is informed and believes and
5 thereon alleges that said officers were Defendants JOHN
6 GUTIERREZ or DOE 1, FRANCISCO VAZQUEZ OR DOE 2 and/or DOES 3-
7 100 and/or each of them. Since the CITY OF OAKLAND has refused
8 heretofore to provide Plaintiff MARGAIN with a copy of the
9 police report concerning this incident prior to the filing of
10 this action, Plaintiff is unable to more specifically identify
11 the officers involved in his arrest and, as a result, is
12 alleging upon information and belief that the officers were
13 Defendants GUTIERREZ, VAZQUEZ or DOES 1-100.

14 72. Despite the fact that Plaintiff MARGAIN was
15 searched and his vehicle was searched and the officers found no
16 evidence of drugs or drug paraphernalia, Defendants VAZQUEZ,
17 GUTIERREZ, DOES 1-100 and/or each of them, falsely claimed that
18 Plaintiff possessed crack cocaine.

19 73. As a result, Plaintiff was falsely arrested,
20 imprisoned and falsely charged with a felony drug offense.

21 74. Plaintiff was forced to post bail in order to be
22 released from jail and incurred costs and expenses as a result
23 thereof.

24 75. Plaintiff was then falsely charged with a felony
25 based on the false allegations by said Defendants and/or each
26 of them, individually and/or while acting in concert with one

1 another and was forced to defend himself against the false
2 charges in Court.

3 76. Fearing that he might be convicted of the felony
4 and sentenced to jail or prison if he contested the false
5 charges at a jury trial, the Plaintiff agreed to accept a plea
6 agreement which included diversion.

7 77. Subsequently, in or about February 2003, the
8 Plaintiff was stopped for a minor violation and it was
9 discovered that he had an outstanding warrant because he did
10 not complete diversion. As a result, the Plaintiff was
11 arrested and imprisoned again as a result of the false charges
12 arising from the September 1999 incident.

13 78. On or about February 14, 2003, the false
14 criminal charges arising from the September 1999 incident were
15 dismissed upon motion of the Alameda County District Attorney's
16 Office.

17 79. As a result of this incident, Plaintiff
18 sustained damages and injuries, including, but not limited to,
19 pain, suffering, emotional distress, loss of liberty and
20 freedom, lost income and/or wages, court costs, bail, fines
21 and/or other expenses and/or other damages in amounts to be
22 determined according to proof.

23 **FRANK WILLIAMS**

24 80. On or about May 22, 2000, Plaintiff FRANK
25 WILLIAMS was in the vicinity of the 2100 Block of Myrtle Street
26 in Oakland, California, when Defendants VAZQUEZ, MABANAG,

1 SIAPNO, ARMERDING, MCFARLANE and/or DOES 1-100 and/or each of
2 them, arrived in the area.

3 81. Despite the fact that there was no reasonable or
4 probable cause to believe that Plaintiff WILLIAMS had committed
5 any crime, said Defendants and/or each of them, caused him to
6 be falsely arrest, falsely imprisoned and/or falsely charged
7 with a false crimes and/or caused him to be subjected to
8 excessive and unreasonable force during the course of said
9 false arrest.

10 82. As a result, Plaintiff WILLIAMS beaten when he
11 was arrested and a false statement was created by said
12 Defendants and/or each of them, individually and/or while
13 acting in concert with one another, which was falsely
14 attributed to Plaintiff WILLIAMS which attempted to insulate
15 the officers from liability for the physical injuries and other
16 damages inflicted on the Plaintiff as a result of this
17 incident.

18 83. The Plaintiff, who was a juvenile at the time,
19 was taken to juvenile hall where he was imprisoned without
20 reasonable or probable cause to believe that he committed any
21 crime. The Plaintiff was later released to his mother and no
22 charges were filed against the Plaintiff as a result of this
23 incident.

24 84. As a result of this incident, the Plaintiff
25 suffered injuries and damages, including, but not limited to,
26 pain, suffering, emotional distress, physical injuries to his

1 body and head, medical and related expenses, loss of liberty
2 and freedom and other damages in amounts to be determined
3 according to proof.

4 85. Thereafter, approximately a month after the
5 aforesaid incident occurred, Plaintiff was contacted again by
6 Defendant VAZQUEZ or DOE 1 in the vicinity of the 2100 Block of
7 Myrtle in Oakland without reasonable or probable cause to
8 believe that he committed any crime.

9 86. Defendant VAZQUEZ or DOE 1 subjected the
10 Plaintiff to excessive and unreasonable force, including by
11 throwing the Plaintiff from a roof.

12 87. As a result, Plaintiff sustained damages and
13 injuries, including, but not limited to, pain, suffering and
14 emotional distress and/or other damages and/or injuries in
15 amounts to be determined according to proof.

16 FIRST CAUSE OF ACTION

(42 U.S.C. SECTION 1983)

17 (AGAINST DEFENDANTS VAZQUEZ, MABANAG,
18 SIAPNO, ARMERDING, MCFARLANE, GUTIERREZ, HAYTER, DOES 1-100)

19 88. Plaintiffs incorporate by reference and re-
20 allege herein Paragraphs 1 through 87.

21 89. In doing the acts complained of herein,
22 Defendants VAZQUEZ, MABANAG, SIAPNO, ARMERDING, MCFARLANE,
23 GUTIERREZ, HAYTER and/or DOES 1 through 100, individually
24 and/or while acting in concert with one another, did act under
25 color of state law to deprive Plaintiffs and/or each of them as
26 alleged heretofore in this Complaint, of certain

1 constitutionally protected rights, including, but not limited
2 to:

3 (a) the right to be free from excessive and unnecessary
4 police use of force;

5 (b) the right not to be deprived of liberty without Due
6 Process of Law;

7 (c) the right to be free from unreasonable search or
8 seizure;

9 (d) the right to freedom of association and/or freedom of
10 speech; and/or

11 (e) the right to Equal Protection of the Law.

12 90. Said rights are substantive guarantees under
13 the First, Fourth and/or Fourteenth Amendments to the United
14 States Constitution.

15 WHEREFORE, Plaintiffs pray for relief as hereinafter set
16 forth.

17 SECOND CAUSE OF ACTION

(42 U.S.C. SECTION 1983)

18 (AGAINST DEFENDANTS WORD, CITY OF OAKLAND, DOES 1-100)

19 91. Plaintiffs incorporate by reference and re-
20 allege herein Paragraphs 1 through 90.

21 92. As against Defendants CITY OF OAKLAND, WORD
22 and/or DOES 1-100 and/or each of them, Plaintiffs further
23 allege that the acts and/or omissions alleged in the Complaint
24 herein are indicative and representative of a repeated course
25 of conduct by members of the City of Oakland Police Department
26 tantamount to a custom, policy or repeated practice of

1 condoning and tacitly encouraging the abuse of police
2 authority, and disregard for the constitutional rights of
3 citizens.

4 93. Plaintiffs are further informed and believe and
5 thereon allege that the acts alleged herein are the direct and
6 proximate result of the deliberate indifference of Defendants
7 CITY OF OAKLAND, WORD and/or DOES 1-100 and/or each of them,
8 to repeated acts of police misconduct which were tacitly
9 authorized, encouraged or condoned by Defendant CITY OF
10 OAKLAND, WORD, DOES 1-100 and/or each of them, and other high
11 ranking police department officials.

12 94. The injuries to the Plaintiffs were the
13 foreseeable and proximate result of said customs, policies,
14 patterns and/or practices of Defendants CITY OF OAKLAND, WORD
15 and/or DOES 1-100 and/or each of them.

16 95. Plaintiffs are further informed and believe and
17 thereon allege that the damages they sustained as alleged
18 herein were the direct and proximate result of municipal
19 customs and/or policies of deliberate indifference in the
20 training, supervision and/or discipline of members of the CITY
21 OF OAKLAND Police Department by Defendants CITY OF OAKLAND,
22 WORD and/or DOES 1-100 and/or each of them.

23 96. Plaintiffs are further informed and believe and
24 upon such information and belief allege that their damages and
25 injuries were caused by customs, policies, patterns or
26 practices of Defendants CITY OF OAKLAND, WORD, DOES 1-100

1 and/or each of them, of deliberate indifference in the
2 training, supervision and/or discipline of "The Riders" and/or
3 other Oakland Police Officers and supervisors, including, but
4 not limited to, Defendants VAZQUEZ, MABANAG, SIAPNO,
5 ARMERDING, MCFARLANE, GUTIERREZ, HAYTER and/or DOES 1-100,
6 and/or each of them.

7 97. The aforementioned customs, policies or
8 practices of Defendants CITY OF OAKLAND, WORD and/or DOES 1-
9 100 and/or each of them, resulted in the deprivation of the
10 constitutional rights of the Plaintiffs, and each of them,
11 including, but not limited to, the following:

12 (a) the right to be free from excessive and unnecessary
13 police use of force;

14 (b) the right not to be deprived of liberty without Due
15 Process of Law;

16 (c) the right to be free from unreasonable searches
17 and/or seizures;

18 (d) the right to freedom of association and/or freedom of
19 speech; and/or

20 (e) the right to Equal Protection of the Law.

21 98. Said rights are substantive guarantees under
22 the First, Fourth and/or Fourteenth Amendments to the United
23 State Constitution.

24 WHEREFORE, Plaintiffs pray for relief as hereinafter set
25 forth.

26 THIRD CAUSE OF ACTION

(42 U.S.C. SECTION 1983)

(AGAINST DEFENDANTS WORD, HAYTER AND DOES 1-100)

99. Plaintiffs incorporate by reference and re-allege herein Paragraphs 1 through 98.

100. Plaintiffs are informed and believe and thereon allege that high ranking City of Oakland officials, including high ranking police supervisors, such as Defendant WORD, Defendant HAYTER and/or DOES 1 through 100, knew and/or reasonably should have known about the repeated acts of misconduct by "The Riders," the individual police officer Defendants herein or each of them, and/or DOES 1-100, and/or each of them.

101. Despite having such notice, Plaintiffs are informed and believe and thereon allege that Defendants WORD, HAYTER and/or DOES 1-100, and/or each of them, approved, ratified, condoned, encouraged and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil rights violations by said officers or each of them.

102. Plaintiffs are further informed and believe and thereon allege that at the time of certain of the subject incidents, Defendant HAYTER supervised "The Riders," and/or some of the individual police officer Defendants herein and/or DOES 1-100, and/or each of them, and approved, encouraged or otherwise ratified misconduct as alleged herein.

103. Plaintiffs are further informed and believe and thereon allege that as a result of the deliberate

1 indifference, reckless and/or conscious disregard of the
2 misconduct by "The Riders" the individual police officer
3 Defendants herein or each of them, and/or DOES 1-100, and/or
4 each of them, Defendants WORD, HAYTER and/or DOES 1-100,
5 encouraged, authorized, ratified and/or acquiesced in the
6 continued custom, policy or practice of civil rights
7 violations and other misconduct as alleged in this Complaint.

8 104. The aforementioned acts and/or omissions
9 and/or deliberate indifference by high ranking City of Oakland
10 officials, including high ranking City of Oakland Police
11 Department supervisors, Defendants WORD, HAYTER and/or DOES 1-
12 100, and each of them, resulted in the deprivation of
13 Plaintiffs' constitutional rights including, but not limited
14 to, the following:

15 (a) the right to be free from excessive and unnecessary
16 police use of force;

17 (b) the right not to be deprived of liberty without Due
18 Process of Law;

19 (c) the right to be free from unreasonable searches
20 and/or seizures;

21 (d) the right to freedom of association and/or freedom of
22 speech; and/or

23 (e) the Equal Protection of the Law.

24 105. Said rights are substantive guarantees under
25 the First, Fourth and/or Fourteenth Amendments to the United
26 State Constitution.

1 WHEREFORE, Plaintiffs pray for relief as hereinafter set
2 forth.

3 FOURTH CAUSE OF ACTION

4 (42 U.S.C. §§1985-86)

5 (AGAINST DEFENDANTS CITY OF OAKLAND, WORD, HAYTER, VAZQUEZ,
6 SIAPNO, MABANAG, ARMERDING, MCFARLANE, GUTIERREZ,
7 DOES 1-100)

8 106. Plaintiffs incorporate by reference and re-
9 allege herein Paragraphs 1 through 107.

10 107. In doing the acts and/or omissions alleged
11 herein, Defendants VAZQUEZ, SIAPNO, MABANAG, ARMERDING,
12 MCFARLANE, GUTIERREZ, DOES 1-100, and/or each of them,
13 individually, while acting in concert with one another and/or
14 by failing to intervene, conspired for the purpose of
15 depriving Plaintiffs, either directly or indirectly, of the
16 equal protection of the laws or of equal privileges and
17 immunities under the laws as alleged in this Complaint in
18 violation of 42 U.S.C. §1985.

19 108. As a result of said conspiracy and/or
20 conspiracies by Defendants VAZQUEZ, SIAPNO, MABANAG,
21 ARMERDING, MCFARLANE, GUTIERREZ, DOES 1-100, and/or each of
22 them, individually, while acting in concert with one another
23 and/or by failing to intervene, Plaintiffs and/or each of
24 them, are entitled to recover damages in amounts to be
25 determined according to proof.

26 109. Plaintiffs are further informed and believe and
thereon allege that Defendants CITY OF OAKLAND, WORD, SGT.

1 HAYTER, the individual police officer Defendants herein, DOES
2 1-100, and/or each of them, had the power to stop and/or aid
3 in preventing the conspiracy and/or conspiracies by said other
4 Defendants, and/or each of them, as alleged herein, but
5 instead maintained customs, policies, and/or practices which
6 encouraged, authorized, condoned, ratified, failed to prevent
7 and/or failed to aid in the prevention of the wrongs conspired
8 to be done by said other Defendants and/or each of them,
9 alleged herein.

10 110. As a result of said customs, policies and/or
11 practices, Defendant CITY OF OAKLAND, Defendant WORD, the
12 individual police officer Defendants herein, SGT. HAYTER, DOES
13 1-100, and/or each of them, are liable under 42 U.S.C. §1986
14 for their failure to stop and/or failure to prevent the wrongs
15 conspired to be done by said other defendants and/or each of
16 them as alleged herein.

17 111. Plaintiffs are further informed and believe and
18 thereon allege that high ranking CITY OF OAKLAND officials,
19 including, but not limited to high ranking CITY OF OAKLAND
20 Police Department supervisors, including Defendant WORD,
21 Defendant HAYTER and/or DOES 1-100, and each of them, knew
22 and/or reasonably should have known of the wrongs conspired to
23 be done by said other Defendants and/or each of them, had the
24 power to prevent or aid in preventing the commission of the
25 same, and neglected and/or refused to do so in violation of 42
26 U.S.C. §1986.

1 112. As a result of the failure and/or refusal of
2 Defendant WORD, Defendant HAYTER, the individual police
3 officer Defendants herein and/or DOES 1-100, and each of them,
4 to prevent or aid in preventing the commission of the
5 conspiracy and/or conspiracies by said other Defendants and/or
6 each of them, Plaintiffs are entitled to recover damages in
7 amounts to be determined according to proof.

8 STATEMENT OF DAMAGES

9 113. Plaintiffs incorporates by reference and re-
10 alleges herein Paragraphs 1 through 112.

11 114. As a result of the acts and/or omissions of
12 Defendants, and each of them, as alleged herein, Plaintiffs
13 and/or each of them, suffered all and/or some of the damages
14 listed below:

15 (a) General damages, including, but not limited to,
16 past, present and future damages for pain, suffering,
17 emotional distress, loss of liberty in amounts to be
18 determined according to proof;

19 (b) Past, present and/or future damages for medical
20 and/or related expenses in amounts to be determined according
21 to proof;

22 (c) Past, present and/or future damages for wage
23 loss and/or damage to career in amounts to be determined
24 according to proof;

25 (d) Past, present and/or future damages for
26 attorneys' fees, fines, bail expenses, court costs and/or

1 other costs incurred in connection with the underlying false
2 arrests and/or the defense against false criminal charges
3 filed as a result of the acts and/or omissions of Defendants
4 and/or each of them.

5 115. Plaintiffs are informed and believe and thereon
6 allege that the acts and/or omissions of Defendants WORD,
7 HAYTER, VAZQUEZ, MABANAG, SIAPNO, ARMERDING, MCFARLANE,
8 GUTIERREZ, DOES 1-100, and/or each of them, were intentional,
9 malicious, oppressive and/or done with a conscious or reckless
10 disregard for the rights of the Plaintiffs and/or each of
11 them, as alleged heretofore in this Complaint. Accordingly,
12 Plaintiffs pray for an award of punitive and exemplary damages
13 in amounts to be determined according to proof.

14 116. Plaintiffs will also be entitled to an award of
15 attorneys' fees and costs pursuant to statute(s) in the event
16 that they are the prevailing parties in this action under 42
17 U.S.C. Sections 1983, 1985-86, 1988 and/or under other
18 statutes and/or laws.

19 JURY TRIAL DEMAND

20 117. Plaintiff hereby demands a jury trial.

21 PRAYER

22 WHEREFORE, Plaintiffs, and each of them, pray for
23 judgment against Defendants, and each of them, as follows:

- 24 1. General damages to be determined according to proof;
25 2. Special damages, including but not limited to
26 medical and related expenses, wage loss and/or damage to

1 career; attorneys' fees, court costs and/or other out of
2 pocket expenses in connection with the underlying criminal
3 charges and/or false arrests as alleged herein;

4 3. Attorneys' fees pursuant to statutes;

5 4. Costs of suit;

6 5. Punitive and exemplary damages in amounts to be
7 determined according to proof as to the individual defendants;

8 6. For prejudgment interest as permitted by law;

9 7. For such other and further relief as the Court may
10 deem just and proper.

11
12 DATED: August 27, 2003

_____/s/_____
JAMES B. CHANIN
Attorney for Plaintiffs

13
14
15
16 August 27, 2003

_____/s/_____
JOHN L. BURRIS
Attorney for Plaintiffs